

## **PLANNING COMMISSION**

October 13, 2021

Action Minutes

### **WELCOME**

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### **ROLL CALL**

PRESENT: Commissioners Bonilla, Casey, Caballero, Cantrell, Garcia, Lardinois, Montañez (arrived at 6:33 p.m.), Oliverio (arrived at 6:38 p.m.), Ornelas-Wise, Torrens, Young

ABSENT: None

### **1. CALL TO ORDER & ORDERS OF THE DAY**

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Meeting called to order at: 6:30 p.m.

Access the video, agenda, and related reports for this meeting by visiting the City's website at:  
<https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/commissions-and-hearings/planning-commission>

## 2. PUBLIC COMMENT

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Public comments to the Planning Commission on non-agendized items. Please use the 'raise hand' feature in Zoom or click \*9 to raise a hand to speak or contact 408-535-3505 to request to speak. Each member of the public may address the Commission for up to two minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:

- Responding to statements made or questions posed by members of the public; or
- Requesting staff to report back on a matter at a subsequent meeting; or
- Directing staff to place the item on a future agenda.

*Juan Estrada spoke about letters sent to the Planning Commission and City Council signed by 100 community members about equity and quality of life in San Jose.*

## 3. DEFERRALS AND REMOVALS FROM CALENDAR

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Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral or removal.

Staff will provide an update on the items for which deferral and removal is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring or removing these or any other items, please use the 'raise hand' feature in Zoom or click \*9 to raise a hand to speak or contact 408-535-3505 to request to speak.

**No Items**

## 4. CONSENT CALENDAR

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The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately.

Staff will provide an update on the consent calendar. If you wish to speak on one of these items, please use the 'raise hand' feature in Zoom or click \*9 to raise a hand to speak or contact 408-535-3505 to request to speak.

**ACTION: COMMISSIONER LARDINOIS MADE A MOTION TO APPROVE THE STAFF RECOMMENDATIONS FOR CONSENT CALENDAR ITEMS 4.A. THROUGH 4.C.**

**COMMISSIONER CABALLERO SECONDED THE MOTION (10-0-1; OLIVERIO ABSENT).**

**ITEM 4.D. WAS PULLED BY CHAIR BONILLA. CHAIR BONILLA RECOMMENDED TO DEFER ITEM 4.D. TO THE OCTOBER 27, 2021 PLANNING COMMISSION MEETING.**

**COMMISSIONER CASEY MADE A MOTION TO DEFER ITEM 4.D. TO THE OCTOBER 27, 2021 PLANNING COMMISSION MEETING. COMMISSIONER ORNELAS-WISE SECONDED THE MOTION (10-1; OLIVERIO OPPOSED)**

- a. [Review and Approve Action Minutes from September 22, 2021.](#)
- b. [Bylaws Amendments.](#) Consideration of amendments to the Planning Commission Rules of Conduct (Planning Commission Resolution No. 64-1) to amend the quorum requirement for Planning Commission meetings because of the City Charter change in the number of Planning Commission members and to change the Commission's parliamentary rules from Robert's Rules of Order to Rosenberg's Rules of Order. **CEQA:** Not a project.
- 1. RECOMMEND ADOPTION OF THE PROPOSED AMENDMENTS TO PLANNING COMMISSION RESOLUTION NO. 64-1.**
- c. [CP19-029 \(Administrative Hearing\).](#) Conditional Use Permit for wireless communication antenna use on an existing 59-foot high wooden pole, the installation of six antennas and nine remote radio units, on an approximately 67-gross acre site located on the east side of Old Oakland Road approximately 1,200 feet southerly of Murphy Avenue (1560 Oakland Road) (City of San Jose, Owner). Council District 4. **CEQA:** Exempt pursuant to CEQA Guidelines Section 15303(e) for New Construction of Conversion of Small Structures.
- PROJECT MANAGER, RHONDA BUSS*
- 1. CONSIDER A CATEGORICAL EXEMPTION IN ACCORDANCE WITH CEQA GUIDELINES SECTION 15303(E) FOR NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES; AND**
- 2. ADOPT A RESOLUTION APPROVING, SUBJECT TO CONDITIONS, A CONDITIONAL USE PERMIT TO ALLOW THE WIRELESS COMMUNICATION USE OF AN EXISTING 59-FOOT HIGH WOODEN POLE, THE INSTALLATION OF SIX ANTENNAS AND NINE REMOTE RADIO UNITS, REMOVAL AND REPLACEMENT OF THREE ANTENNAS ON AN ADJACENT POLE, AND EQUIPMENT CHANGES TO AN EXISTING EQUIPMENT SHELTER, ON AN APPROXIMATELY 67-GROSS ACRE SITE.**
- d. [PP21-011.](#) An ordinance of the City of San José amending Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to: (a) amend Chapter 20.30, Section 20.30.100 to include minor text alteration to Table 20-50, and clarifying changes to Section 20.30.270, 'Corner lot- Rear setback-Exception for attached garage', Section 20.30.500, 'Development standards', and Section 20.30.530, 'Height exceptions – Accessory Buildings'; (b) Amend Chapter 20.40, Section 20.40.100 to rectify Table 20-90 to add prior approved text; (c) Amend Chapter 20.50, Section 20.50.100 to rectify Table 20-110 to add prior approved text; (d) amend Chapter 20.70, Section 20.70.100 to include minor correction to Table 20-140 to incorporate indoor theater use; (e) amend Chapter 20.90, Section 20.90.220 to correct a reference to Table 20-190; and to make other technical, non-substantive, or formatting changes within those sections of Title 20 of the San José Municipal Code. Council District: Citywide. **CEQA:** Determination of Consistency with the

Envision San Jose 2040 General Plan Final Program Environmental Impact Report (FEIR), adopted through Resolution No. 76041, and Supplemental EIR Resolution No. 77617, adopted on December 15, 2015, and Addenda thereto.

*PROJECT MANAGER, APARNA ANKOLA*

**THE PLANNING COMMISSION RECOMMENDS THAT THE CITY COUNCIL TAKE ALL OF THE FOLLOWING ACTIONS:**

- 1. CONSIDER THE DETERMINATION OF CONSISTENCY WITH THE ENVISION SAN JOSE 2040 GENERAL PLAN FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT (FEIR), ADOPTED THROUGH RESOLUTION NO. 76041, AND SUPPLEMENTAL EIR RESOLUTION NO. 77617, ADOPTED ON DECEMBER 15, 2015, AND ADDENDA THERETO; AND**
- 2. ADOPT AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING TITLE 20 (ZONING ORDINANCE OR ZONING CODE) OF THE SAN JOSÉ MUNICIPAL CODE TO: (A) AMEND CHAPTER 20.30, SECTION 20.30.100 TO INCLUDE MINOR TEXT ALTERATION TO TABLE 20-50, AND CLARIFYING CHANGES TO SECTION 20.30.270, ‘CORNER LOT- REAR SETBACK-EXCEPTION FOR ATTACHED GARAGE’, SECTION 20.30.500, ‘DEVELOPMENT STANDARDS’, AND SECTION 20.30.530, ‘HEIGHT EXCEPTIONS – ACCESSORY BUILDINGS’; (B) AMEND CHAPTER 20.40, SECTION 20.40.100 TO RECTIFY TABLE 20-90 TO ADD PRIOR APPROVED TEXT; (C) AMEND CHAPTER 20.50, SECTION 20.50.100 TO RECTIFY TABLE 20-110 TO ADD PRIOR APPROVED TEXT; (D) AMEND CHAPTER 20.70, SECTION 20.70.100 TO INCLUDE MINOR CORRECTION TO TABLE 20-140 TO INCORPORATE INDOOR THEATER USE; (E) AMEND CHAPTER 20.90, SECTION 20.90.220 TO CORRECT A REFERENCE TO TABLE 20-190; AND TO MAKE OTHER TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING CHANGES WITHIN THOSE SECTIONS OF TITLE 20 OF THE SAN JOSÉ MUNICIPAL CODE.**

## **5. PUBLIC HEARING**

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Generally, the Public Hearing items are considered by the Planning Commission in the order in which they appear on the agenda. However, please be advised that the Commission may take items out of order to facilitate the agenda, such as to accommodate significant public testimony, or may defer discussion of items to later agendas for public hearing time management purposes.

**COMMISSIONER GARCIA ABSTAINED HIMSELF FROM PARTICIPATING IN THE DECISION-MAKING ON ITEM 5.A. AND LEFT THE ZOOM MEETING.**

- a. **[SP20-021 \(Administrative Permit\)](#).** An appeal of the Planning Director’s approval of a Special Use Permit to allow the demolition of two existing multi-family residential buildings and one single-family home (approximately 16,883 square feet total) and the construction of a new multi-family residential building (23 stories above grade, 248 feet in height) with a total of 240 residential dwelling units (including those restricted through the City’s Inclusionary Housing Ordinance, City’s Ellis Act Ordinance and California’s Housing Crisis Act of 2019 (Senate Bill 330)) ) and five parking configuration options, including an alternative parking design (parking

stackers) and an off-site parking arrangement (off-site parking location) located on the west of South Fourth Street, approximately 120-feet northwesterly of East William Street (459 South 4<sup>th</sup> Street). (UC South 4<sup>th</sup> Street Owner LLC, Owner). Council District 3. **CEQA:** Supplemental Environmental Impact Report (SEIR) to the Downtown Strategy 2040 Final EIR for the Mark Residential Tower Project (SCH#2020080532). *Continued from 9/22/21.*

**PROJECT MANAGER, LAURA MEINERS**

**ACTION: COMMISSIONER OLIVERIO MADE A MOTION TO ADOPT THE STAFF RECOMMENDATIONS TO:**

- 1. CONDUCT AN ADMINISTRATIVE HEARING TO CONSIDER THE APPEAL OF THE PLANNING DIRECTOR'S APPROVAL OF SPECIAL USE PERMIT NO. SP20-021 FOR THE MARK PROJECT, WHICH ALLOWS THE DEMOLITION OF TWO EXISTING MULTI-FAMILY RESIDENTIAL BUILDINGS AND ONE SINGLE-FAMILY HOME (APPROXIMATELY 16,883 SQUARE FEET TOTAL) AND THE CONSTRUCTION OF A NEW MULTI-FAMILY RESIDENTIAL BUILDING (23 STORIES ABOVE GRADE, 248 FEET IN HEIGHT) WITH A TOTAL OF 240 RESIDENTIAL DWELLING UNITS (INCLUDING THOSE RESTRICTED THROUGH THE CITY'S INCLUSIONARY HOUSING ORDINANCE, CITY'S ELLIS ACT ORDINANCE AND CALIFORNIA'S HOUSING CRISIS ACT OF 2019 (SENATE BILL 330)) AND FIVE PARKING CONFIGURATION OPTIONS, INCLUDING AN ALTERNATIVE PARKING DESIGN (PARKING STACKERS) AND AN OFF-SITE PARKING ARRANGEMENT (OFF-SITE PARKING LOCATION) LOCATED ON THE WEST OF SOUTH FOURTH STREET, APPROXIMATELY 120-FEET NORTHWESTERLY OF EAST WILLIAM STREET (459 SOUTH 4<sup>TH</sup> STREET); AND**
- 2. ADOPT A RESOLUTION CERTIFYING THE SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (SEIR) TO THE DOWNTOWN STRATEGY 2040 FINAL EIR FOR THE MARK RESIDENTIAL TOWER PROJECT (SCH#2020080532) AND MAKE CERTAIN FINDINGS CONCERNING MITIGATION MEASURES AND ALTERNATIVES, AND A MITIGATION MONITORING AND REPORTING PROGRAM, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), AS AMENDED; AND**
- 3. ADOPT A RESOLUTION DENYING THE PERMIT APPEAL AND APPROVING, SUBJECT TO CONDITIONS, THE SPECIAL USE PERMIT TO ALLOW THE DEMOLITION OF TWO EXISTING MULTI-FAMILY RESIDENTIAL BUILDINGS AND ONE SINGLE-FAMILY HOME (APPROXIMATELY 16,883 SQUARE FEET TOTAL) AND THE CONSTRUCTION OF A NEW MULTI-FAMILY RESIDENTIAL BUILDING (23 STORIES ABOVE GRADE, 248 FEET IN HEIGHT) WITH A TOTAL OF 240 RESIDENTIAL DWELLING UNITS (INCLUDING THOSE RESTRICTED THROUGH THE CITY'S INCLUSIONARY HOUSING ORDINANCE, CITY'S ELLIS ACT ORDINANCE AND CALIFORNIA'S HOUSING CRISIS ACT OF 2019 (SENATE BILL 330)) AND FIVE PARKING CONFIGURATION OPTIONS, INCLUDING AN ALTERNATIVE PARKING DESIGN (PARKING STACKERS) AND AN OFF-SITE PARKING ARRANGEMENT (OFF-SITE PARKING LOCATION), INCLUDING REVISED CONDITION NOS. 3 AND 5.**

**COMMISSIONER LARDINOIS SECONDED THE MOTION (10-0-0-1; GARCIA ABSTAINED)**

## **6. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS, OR OTHER AGENCIES**

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**No Items**

## **7. GOOD AND WELFARE**

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- a. Report from City Council

*No items*

- b. Subcommittee Formation, Reports, and Outstanding Business

*No items*

- c. Feedback from APA Conference

- d. Commission Calendar and Study Sessions

- i. [Review and Approve 2022 Planning Commission Meeting Schedule](#)

*Commissioner Oliverio made a motion to adopt the resolution approving the 2022 Planning Commission meeting calendar. Commissioner Bonilla seconded the motion (10-0-1; Garcia absent)*

- ii. Study Session scheduled for 10/27/21 for the General Plan Four-Year Review

*Commissioner Oliverio asked about 4-year GP review and contents. No staff from Citywide Planning was at the meeting to respond. City Attorney, Vera Todorov, clarified that the Planning Commission may hear the Coyote Valley amendments separately from the 4-year General Plan review.*

- e. The Public Record

*No items*

## **8. ADJOURNMENT**

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Meeting adjourned at 7:21 p.m.